IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.4264 of 2007
AAZAM ALI & ANR
Versus
STATE OF BIHAR & ANR

For the Petitioners: M/S. N.K. Agrawal, Senior Advocates and Diwakar Prasad Karn, Advocate.
For the State : Mr. Jharkhandi Upadhaya, A.P.P.

O R D E R

The two petitioners who are not named in the original F.I.R. of Minapur P.S. Case No.103 of 1984 but whose name figures in the chargesheet are aggrieved by order dated 7.4.2006 passed therein by the learned Chief Judicial Magistrate, Muzaffarpur, whereby he has taken cognizance of offences under Sections 409, 406 and 420 I.P.C. and have prayed for the quashing of the same.

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Briefly stated ,the prosecution case is that the Block Development Officer, Minapur had given a written report to the Officer Incharge of Minapur P.S. to institute a case against Lalan Prasad Singh and Manzar Alam, two Assistants , incharge of Files and Registers in the Office, who had misplaced the files and registers of the years 1980 to 1983 and they had proceeded for long unauthorized leave. It was also alleged that in the F.I.R. that the accused persons had defalcated the amount of seeds.

The submission on behalf of the petitioners is that they are innocent, have committed no offence whatsoever and have been falsely implicated in this case. It was sought to be pointed out that the chargesheet against the petitioners was submitted under Sections 406, 409, 420 and 471 I.P.C. on 5.10.2005 , i.e., almost after 21 years and on the basis thereof the

learned Chief Judicial Magistrate had taken cognizance under Sections 409, 406 and 420 I.P.C. without applying his judicial mind and from the same it is amply clear that the taking of cognizance is barred by limitation. It has also been alleged that the aforesaid case had been filed by the informant only to save his skin. It was further sought to be submitted that notwithstanding the passage of almost 24 years no effective progress has been made in the case and no one knows how much time the trial is bound to occupy and it was extremely doubtful whether it will at all result in conviction. According to the learned counsel for the petitioners no gainful purpose will be served by allowing the prosecution to continue.

In the case of State of Bihar Vs. Uma Shankar Kotriwal(AIR 1981 SC 641) the Hon'ble Judges of the Supreme Court expressed their anguish over trial protracting for over 20 years . In that case the trial had not made much headway even though the period of 20 years had gone by and the High Court had quashed the proceedings. The Supreme Court refused to interfere with the orders of the High Court in Appeal by Special Leave even though the accused themselves were responsible in a large measure for the slow pace of the case and allegations in the public report disclosed serious offence as such protraction meant considerable harassment to the accused.

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In the case of M/s. Munshi Ram Ramniwash Vs. Collector(AIR 1993 SC 1203) where more than 10 years had elapsed from the alleged commission of the offence, the Apex Court took a serious view of the matter and observed " it appears to us that the State is not serious in pursuing the criminal proceedings and even otherwise more than 10 years

have already elapsed to the alleged commission of the offence. It would be against the interest of justice to further continue any criminal proceedings in the case." On such observations, the Apex Court directed for dropping the criminal proceedings launched and pending against the appellant.

The instant case depicts a sorry state of affairs inasmuch as it has taken the investigating agency almost 21 years to complete the investigation and a further period of 6 months has been spent over the learned Chief Judicial Magistrate to take cognizance. It is unfortunate that the investigation has lingered on for such a long period and the anguish and harassment suffered by the accused cannot be compensated in any way. Continuance of such proceedings appears to be an abuse of the process of the court and is required to be quashed.

Accordingly, this application succeeds and the entire criminal proceedings arising out of Minapur P.S. Case No.103 of 1984, Trial No.1904 of 2006, is hereby quashed.

(Abhijit Sinha,J)

Patna High Court, Patna,
Dated: The 16th of May, 2008.
Pradeep Srivastava/A.F.R.

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